APPENDIX

HERSCHKOWITZ FRAUDULENT NATURALIZATION CORRESPONDENCE OF 1907

DEPARTMENT OF COMMERCE AND LABOR
Office of the Secretary
Washington

JANUARY 23, 1907.

1506–19.

Hon. CHARLES J. BONAPARTE,
Attorney General.

SIR: Herewith I hand you papers in relation to the fraudulent naturalization of one Isidore Herschkowitz, received here from the State Department, consisting of a certified copy of a despatch, No. 128, December 19, 1906, from the Embassy at Vienna, an extract from the birth records of Homonna, Hungary, with translation, showing the date of his birth, the official record made at Isbugyaradvany, with translation, showing when he emigrated to the United States, and his original application for a passport, dated August 11, 1906, as well as the original certificate of naturalization granted to him by the District Court of the United States in and for the Western District of Pennsylvania, at Pittsburgh, July 23, 1906.

It is apparent from an examination of these papers that the certificate of naturalization was

unlawfully granted to the said Herschkowitz, the same having been secured under the provisions of section 2167 of the Revised Statutes, whereas he was more than eighteen years of age at the time of his arrival in the United States, as shown by his application for a passport and the birth certificate, the latter setting forth that he was born January 24, 1876, and the former that he arrived in the United States November 13, 1895, thus conclusively showing that he was more than eighteen years of age at the time of such arrival. It is therefore requested that the matter be referred to the appropriate United States attorney for such action under section 15 of the naturalization act of June 29, 1906, as may be deemed appropriate.

I have the honor to be, Sir,

Your obedient servant,

/s/ OSCAR S. STRAUS,
Secretary.

R. K. C.

Incl. 9333.
S–M

DEPARTMENT OF JUSTICE

JANUARY 24, 1907.

98433.

JOHN B. VREELAND, Esq.,
United States Attorney,
Newark, New Jersey.

SIR: I enclose herewith certain papers in relation to the alleged fraudulent naturalization of

one Isidore Herschkowitz, for such action as you may deem proper under section 15 of the naturalization act of June 29, 1906.

Respectfully,

_____,

Attorney-General.

Inclosures
13330

DEPARTMENT OF JUSTICE

JANUARY 24, 1907.

98433.

The Honorable the SECRETARY OF COMMERCE AND LABOR.

SIR: I have the honor to acknowledge receipt of your letter of January 23d, transmitting papers in relation to the alleged fraudulent naturalization of one Isidore Herschkowitz.

The case has been referred to the United States Attorney for the district of New Jersey for such action as the facts may warrant.

Respectfully,

_____,

Attorney-General.

DEPARTMENT OF JUSTICE

Office of the United States Attorney,

District of New Jersey,

Newark

MARCH 7, 1907.

A. W. C. 98433.

The ATTORNEY GENERAL,

Washington, D. C.

SIR: Referring to your favor of January 24th last, in which you enclosed certain papers relating to the alleged fraudulent naturalization of one Isidore Herschkowitz, I desire to say that as Section 15 of the Act of June 29, 1906, requires an affidavit showing good cause upon which to base proceedings for the cancellation of a certificate of citizenship fraudulently obtained or illegally procured, I do not see how I can institute proceedings to obtain an order of cancellation, as no affidavit seems to have been obtained or is obtainable, unless one can be secured from the Consul General at Budapest. I notice that this case was called to the attention of the Honorable Secretary of State by Honorable Charles S. Francis, American Ambassador at Vienna.

I am unable to locate the alien, the persons named in the application to the Department of State for a passport not being informed of his whereabouts.

Respectfully,

/s/ JOHN B. VREELAND,

United States Attorney.

DEPARTMENT OF JUSTICE

MARCH 12, 1907.

98433.

The Honorable the SECRETARY OF COMMERCE AND LABOR.

SIR: I have the honor to inform you of the receipt of a letter from the United States Attorney for the district of New Jersey asking that the necessary affidavit provided for in section 15 of the new naturalization act of June 29, 1906, be furnished him in order that he may take proper steps to have the fraudulent naturalization certificate of one Isidore Herschkowitz, canceled. The matter is referred to your Department in order that this may be done.

Respectfully,

_____,

Attorney General.

DEPARTMENT OF JUSTICE

98433.

JOHN B. VREELAND, Esq.,
United States Attorney,
Newark, New Jersey.

SIR: The Department is in receipt of your letter of March 7th, in relation to the alleged fraudulent naturalization certificate of one Isidore Herschkowitz, and has requested the Secretary of Com-

merce and Labor to have the necessary affidavit furnished you.

Respectfully,

_____,

Attorney General.

DEPARTMENT OF COMMERCE AND LABOR

Office of the Secretary

Washington

MARCH 18, 1907.

No. 1506–19.

HON. CHAS. J. BONAPARTE,

Attorney General.

SIR: In response to your letter of the 12th instant, No. 98433, initialed A. W. C., I have to state that there is no one in this Department who is prepared to make affidavit "showing good cause" for the institution of proceedings to set aside and cancel the certificate of citizenship granted to Isidore Herschkowitz by the United States District Court for the Western District of Pennsylvania, July 23, 1906.

If the United States attorney for the district of New Jersey who requests such an affidavit will examine the papers which have been forwarded to him, he will find that the material facts are shown by an authenticated extract from the official birth record of the said Herschkowitz, with translation attached, showing that Herschkowitz was only twenty years of age when he emigrated from Hungary, and thus that he secured naturali-

zation under section 2167 of the Revised Statutes by misrepresentation.

As evidence of "good cause," described in section 15 of the naturalization act of June 29, 1906, it would seem that the authenticated birth record of Herschkowitz and his certificate of naturalization showing the condifions under which it was issued would have all the value of an affidavit.

Upon this point, however, as the United States attorney for the District of New Jersey appears to have accepted a construction of the said section which makes his duty, and perhaps his authority, to institute proceedings in any court for the cancellation of a naturalization certificate dependent exclusively upon the filing of an affidavit in each case, rather than that the purpose of requiring such affidavit was to protect the holders of certificates of naturalization from annoyance and the said attorneys from unnecessary labor as the result of mere complaints by individuals unable to produce evidence or unwilling to assume the responsibility therefor, an expression of your views is asked as to whether the said section 15 relieves the United States attorney of the necessity of proceeding thereunder to secure the cancellation of a certificate on the ground that it was fraudulently or illegally procured, or renders such proceeding on his part unlawful unless in each instance an "affidavit showing good cause therefor" is first submitted, irrespective of the character of other evidence adduced for that purpose.

I have the honor to be, Sir,
Your obedient servant,
/s/ OSCAR S. STRAUS,
Secretary.
R. K. C.

Dic. S.

DEPARTMENT OF JUSTICE

98433. MARCH 26, 1907.

The Honorable the SECRETARY OF COMMERCE AND LABOR

SIR: The Department has the honor to acknowledge receipt of your letter of March 18th in which you ask whether the filing of an affidavit is necessary to give a United States attorney authority to institute proceedings in any court for the cancellation of a naturalization certificate. It appears to the Department that this is the case. The object of the provision undoubtedly is to protect holders of certificates from annoyance and attorneys from unnecessary labor as the result of mere complaints by individuals unable to produce evidence and unwilling to assume the responsibility therefor, as suggested in your letter; but it also seems clear to me that Congress has seen fit to prescribe the method by which this protection to those holding naturalization certificates is to be enforced.

I am, therefore, of opinion that before any United States attorney is authorized to institute proceedings for the cancellation of a naturaliza-

tion certificate he should be furnished with a proper affidavit on which the proceedings may be based.

Respectfully,

_____,

Attorney General.

DEPARTMENT OF COMMERCE AND LABOR

Office of the Secretary

Washington

APRIL 15, 1907.

1506–19.

HON. CHARLES J. BONAPARTE,

Attorney General.

SIR: In view of the recent decision of your Department that before a United States attorney is authorized to institute proceedings for the cancellation of certificates of naturalization under section 15 of the act of June 29, 1906, he should be furnished with an affidavit as provided by said section upon which to base the proceedings, it is requested that the papers in the case of Isidore Herschkowitz, forwarded to your Department under cover of letter dated January 23d, last, be returned to this Department in order that, if possible, such an affidavit may be procured.

I have the honor to be, Sir,

Your obedient servant,

[S] LAWRENCE O. MURRAY,

Assistant Secretary.

S. R. K. C.

DEPARTMENT OF JUSTICE

APRIL 17, 1907.

98433.

JOHN B. VREELAND, Esq.,
United States Attorney,
Newark, New Jersey.

SIR: Referring to your letter of March 7th last, in regard to the matter of the cancellation of the certificate of citizenship issued to one Isidore Herschkowitz, the Department requests the return of all the papers appertaining thereto, in order that the affidavit you have requested may be prepared.

Respectfully,

———— ————,
Attorney General.

DEPARTMENT OF JUSTICE

APRIL 19, 1907.

98433

The Honorable the SECRETARY OF COMMERCE AND LABOR.

SIR: In compliance with the request contained in your letter of the 15th instant, I beg to send you herewith the papers in the case of Isidore

Herschkowitz, charged with having procured his certificate of naturalization fraudulently.

Respectfully,

_____,

Attorney General.

Inclosures.
14229.

DEPARTMENT OF COMMERCE AND LABOR
Office of the Secretary
Washington

MAY 8, 1907.

1506–19.

Hon. CHARLES J. BONAPARTE,
Attorney-General.

SIR: Inclosed herewith I hand you the papers in the case of Isidore Herschkowitz, forwarded to you under cover of the letter of this Department dated January 23d, last, and returned by you on the 19th ultimo, as requested, to permit of the furnishing of the statutory affidavit upon which to base proceedings under section 15 of the act of June 29, 1906, having in view the vacation of the order of court conferring citizenship upon Herschkowitz and the cancellation of the certificate of naturalization issued thereon.

The papers referred to consist of a certified copy of a despatch, No. 128, from the Embassy at Vienna, dated December 19, 1906; a record in the Hungarian language made November 30, 1906, by the Circuit Court of Izbugyaradvany,

with translation; an application for a passport by Herschkowitz, executed August 11, 1906; an extract from the Israelite birth record of Homonna for 1876, with translation; and a certificate of naturalization issued by the District Court of the United States in and for the Western District of Pennsylvania, at Pittsburg, July 23, 1906; also an affidavit of Gaillard Hunt, Chief of the Passport Bureau of the Department of State, dated May 4, 1907, as to the genuineness of the above documents, all of which tend to show that the said Herschkowitz was unlawfully naturalized, having been more than eighteen years of age at the time of his arrival in the United States, whereas naturalization was obtained under section 2167 of the Revised Statutes, relating to aliens who came to this country previous to becoming eighteen years of age.

It is therefore requested that the matter be referred to the proper United States attorney for such action under section 15 of the act of June 29, 1906, as may be deemed appropriate.

I have the honor to be, Sir,

Your obedient servant,

/s/ OSCAR S. STRAUS,
Secretary.

R. F. G.

Incl. 935.
S–W.

DEPARTMENT OF JUSTICE

MAY 9, 1907.

98433.

The Honorable the SECRETARY OF COMMERCE AND LABOR.

SIR: I have the honor to acknowledge receipt of your letter of the 8th instant, returning the papers in the naturalization case of Isidore Herschkowitz together with the affidavit requested by the United States Attorney for the district of New Jersey in order that proceedings might be instituted for the cancellation of the Certificate of Herschkowitz.

Respectfully,

_____,

Attorney General.

DEPARTMENT OF JUSTICE

MAY 9, 1907.

98433.

JOHN B. VREELAND, Esq.,
United States Attorney,
Newark, New Jersey.

SIR: The Department sends you herewith the papers in the naturalization case of Isidore Herschkowitz, the affidavit you requested, having been executed and appended thereto.

Please take the necessary steps to secure the cancellation of the certificate of Herschkowitz.

Respectfully,

_____,

Attorney General.

Inclosures
18022.

DEPARTMENT OF JUSTICE

Office of the United States Attorney

District of New Jersey

Newark

JUNE 4TH, 1907.

A. W. C. 98433.

The ATTORNEY GENERAL,

Washington, D. C.

SIR: I have filed a petition in the United States District Court for this District to set aside and cancel the certificate of citizenship of Isidore Herschkowitz. I placed in the hands of the Marshal a notice as required by Sec. 15 of the Act of June 29, 1906, Chap. 3592, 34 Stat., page 601, and he informs me that the defendant has left the country and gone back to Europe. The act says "And if the holder of such certificate be absent from the United States or from the District in which he last had his residence, such notice shall be given by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the state or the

place where such suit is brought." We have no practice in this state by which summons can be served by publication, but in our procedure in equity, notice can be given by publication to absent defendants, such publication to be made in a newspaper once a week for four weeks, or five insertions. As the proceeding in this case is in its nature an equitable one, I presume that following our equity practice will answer all purposes. I do not know just what it will cost to publish the notice in a newspaper, but the fees are fixed by the laws of the state, and I write for authority to incur the necessary expense.

Respectfully,

/s/ JOHN B. VREELAND,
United States Attorney.

[Handwritten memo:]
Captn. GLOVER: Please authorize this.

/s/ RIDGELY.

DEPARTMENT OF JUSTICE

JUNE 7, 1907.

98433.

J. B. VREELAND, Esq.,
United States Attorney,
Newark, N. J.

SIR: Replying to your letter of the 4th instant, you are hereby authorized to incur the expense of publishing the notice required by section 15 of the act of June 29, 1906, in the proceedings to set aside and cancel the certificate of citizenship of Isidore Herschkowitz.

The account should be rendered in accordance with paragraph 916 of the Instructions dated April 1, 1904, and forwarded to this Department for settlement.

Respectfully,

_____,

Attorney General.

William L. Penfield Walter S. Penfield

Cable Address "Intlaw Washington"

PENFIELD & PENFIELD

Attorneys and Counselors at Law

213–216 Colorado Building

Washington, D. C.

SEPTEMBER 21, 1907.

The Honorable the ATTORNEY GENERAL.

SIR: If the courtesy may be properly accorded, I should be thankful if the Department of Justice would kindly furnish me a copy of its letter to the Department of Commerce, dated March 26 last, with reference to the institution of proceedings to set aside naturalization certificates on the filing of a proper affidavit showing good cause therefor.

I am, sir,

Your obedient servant,

(Signed) W. L. PENFIELD.

DEPARTMENT OF JUSTICE

SEPTEMBER 26, 1907.

W. L. PENFIELD, Esq.,
213–216 Colorado Building,
Washington; D. C.

SIR: In accordance with the request contained in your letter of the 21st instant, I send you herewith a copy of the Department's letter upon the matter of the requirement of an affidavit upon which to base proceedings for the cancellation of fraudulent naturalization certificates.

Respectfully,

_____,
Attorney General.

Inclosure.
19896.

U. S. GOVERNMENT PRINTING OFFICE, 1908